

**RAILROAD COMMISSION OF TEXAS
FORMAL COMMISSION ACTION
SEPTEMBER 21, 2004**

Pursuant to lawful notice, the Commission held an open meeting at 1701 N. Congress Avenue, in Room 1-111, Austin, Texas, on the 21st day of September 2004, commencing at 9:30 a.m. Chairman Victor G. Carrillo and Commissioners Charles R. Matthews and Michael L. Williams were present. Chairman Carrillo presided.

- I. The Commission convened for the purpose of conducting the monthly Oil and Gas Statewide Hearing. The Commission approved and signed the order setting the lawful market demand for the month of October 2004.
- II. The Commission began consideration of matters falling within the Railroad Commission's Safety Division regulatory jurisdiction.
 - A. In consideration of Docket No. 0003767ZZCL, the Commission approved the application of M-I SWACO to deviate from the terms of the Railroad Clearance Statute. Approval was recommended by Staff Attorney Nigel Gusdorf.
- III. The Commission began consideration of matters falling within the Railroad Commission's Gas Services Division regulatory jurisdiction.
 - A. In consideration of Pipeline Safety Docket Nos. 9429 and 9430, the Commission approved the Direct Assessment Methodologies as part of TXU Gas Distribution's and TXU Lone Star Pipeline's Integrity Assessment and Risk Management Plans. Approval was recommended by Enforcement Director Boyd Johnson and Safety Director Mary McDaniel.
 - B. At the request of Chairman Carrillo, the Commission deferred consideration of Pipeline Safety Docket No. 9399, regarding Houston Pipe Line Company, for further review.
- IV. The Commission began consideration of matters falling within the Railroad Commission's Surface Mining Division regulatory jurisdiction.

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- A. In consideration of Docket No. C2-0015-SC-04-C, the Commission approved the application of TXU Mining Company LP for renewal/revision of Permit No. 4H, and their request for acceptance of reclamation performance bond (self-bond with third-party guarantee), Martin Lake Mine, Panola and Rusk Counties, Texas. Approval was recommended by Examiner Marcy J. Spraggins.
- B. In consideration of Docket No. C4-0014-SC-27-F, the Commission approved the application by Walnut Creek Mining Company for release of Phase I and II reclamation obligations for 50.4 acres (Area A1-3), and 18 acres (Pond SPC-4), as revised, Permit No. 27F, Calvert Mine, Robertson County, Texas. Approval was recommended by Examiner Marcy J. Spraggins.
- C. In consideration of Docket No. C4-0016-SC-04-F, the Commission approved the application by TXU Mining Company LP for release of Phase I reclamation obligations (backfilling, regrading, and drainage control) for 994.81 acres, Martin Lake Mine, Permit No. 4H, Panola and Rusk Counties, Texas. Approval was recommended by Examiner Marcy J. Spraggins.
- D. At this time, Chairman Carrillo presented the Year 2004 Texas Reclamation Award to TXU Mining Company for their Martin Lake Mine. Accepting the award were Angela Dunlap, Environmental Supervisor -Martin Lake Mine, Jeff Mason, Mine Engineering Manager - Martin Lake Mine, and Sid Stroud, Environmental Mining Manager, TXU Power.
- V. The Commission began consideration of matters falling within the Railroad Commission's Oil and Gas regulatory jurisdiction.
 - A. The Commission took the following action on applications appearing on the protested docket of the Oil and Gas Division:
 - 1. In consideration of Docket No. 20-0239494, the Commission approved the application of Susana Hahn and Cathy Guerra for removal of their permitting qualifications under Texas Natural Resources Code Section 91.114 resulting from their association with Core E&P Corp. (Operator No. 178381). The Commission also granted the applicants requests to remove their names from the Commission's current P-5 records for Core E&P, Inc. This action was recommended by Examiner James Doherty.

2. In consideration of Docket No. 8A-0231779, regarding the enforcement action against Bryant Salt Water Disposal Inc., (104775) Operator, Willard, N.W. “B” (61337) Lease, Well No. 1D, Levelland (5341101) Field, Hockley County, Texas, for violations of Rules 8(d)(1) and 9(12), the Commission ordered Bryant to clean up the subject lease and pay a penalty in the amount of \$4,000. This action was recommended by Examiner James Doherty.
 3. In consideration of Docket No. 04-0234739, regarding the enforcement action against Southern Workover, Inc., State Tract 61 (098360) Lease, Well No. 1, Crane Island, S. (I-4 9230) (21526480) Field, Nueces County, Texas for violations of Rule 14(b)(2), the Commission ordered Southern to plug the well and pay a penalty in the amount of \$9,000. This action was recommended by Examiner James Doherty.
 4. At the request of Chairman Carrillo, the Commission deferred consideration of Docket No. 09-0236216, regarding the enforcement action against 4-N Operating LLC until the next conference.
 5. The Commission considered Docket Nos. 7B-0236046 and 7B-0236047, the motion for rehearing regarding the enforcement action against Northcutt Production for various wells on the McClatchey (110695) and (21038) Leases in Brown County, Texas. The Commission allowed Mr. Dwight Northcutt to speak regarding this matter. On motion of Commissioner Matthews, seconded by Commissioner Williams, the Commission voted to deny the motions for rehearing as recommended by Mark Helmueller.
- B. At this time, the Commission discussed procedural issues regarding the gas flaring process and requested further information from staff.
- C. The Commission approved items on the Oil and Gas Unprotested Consent Agenda, Agreed Enforcement Orders and Master Default Orders.
- D. Rules Notebook: Deputy General Counsel Mary Ross McDonald
1. The Commission approved publishing in the *Texas Register* for a 30-day public comment period an amendment to 16 Tex. Admin. Code §5.301 relating to Rail Safety Program Fee.

2. The Commission approved publishing in the *Texas Register* for a 30-day public comment period amendment of 16 Tex. Admin. Code §20.5 relating to Historically Underutilized Businesses, to remove mandatory provisions for advertising HUB forums; to change the HUB subcontracting plan, and to eliminate graduation of HUBs from the HUB program.
 3. The Commission considered the proposal to repeal 16 Tex. Admin. Code §§20.101, 20.103, 20.104, 20.105, 20.110, 20.111, 20.114, 20.114, and 20.120, relating to Charges for Commission Records; Information in an Electronic or Magnetic Medium; Requests for Information That Require Programming or Manipulation of Data; Charges for Providing Copies of Public Information; Inspection of Paper Records Where Copies Are Not Requested; Inspection of Electronic Record If Copy Not Requested; Information Excepted from Disclosure; Estimates and Waivers of Public Information Charges; and Charge Schedule, and new 16 Tex. Admin. Code §20.101, relating to Access to and Charges for Commission Records. The Commission voted to publish the proposed amendments in the *Texas Register* for a 30-day comment period.
 4. The Commission adopted amendment to 16 Tex. Admin. Code §3.80 (Statewide Rule 80) relating to Commission Forms, Applications, and Filing Requirements to revise forms and make corrections.
- VI. The Commission began consideration of matters authorized by law including the administration, budget, procedures and personnel of the following divisions as presented by the division director or other authorized personnel.
- A. Internal Auditor Tony Renzi
 1. The Commission approved the fiscal year 2005 Audit Plan.
 2. The Commission approved the Fraud Waste and Abuse Program in compliance with Executive Order 36.
 - B. Safety Division: Director Mary McDaniel
 1. The Commission approved the joint request of AFRED, Gas Services, and Safety Divisions to initiate a rulemaking to amend the LP-gas rules in 16 Tex. Admin. Code Chapter 9, pertaining to LP-gas licensing, training, and safety issues and to abolish two of the LP-gas advisory committees.

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C. Oil and Gas: Director Rich Varela

1. The Commission approved the staff recommendation to plug with state funds: Rio Energy (712522); Herman Fee Lease (02340); 26 wells; Humble Field; Harris County, Texas, for an estimated plugging cost of \$182,400.
2. The director recommended the Commission approve the 2003 Annual Report transmittal letter to the Governor. On motion of Chairman Carrillo, the Commission deferred this matter to review of the report.

D. General Counsel Lindil Fowler

1. The Commission received a report on the status of pending Commission rulemakings.

VII. At this time, Chairman Carrillo introduced new staff member Robby Abarca. With no further business to come before the Commission, the conference was adjourned at 10:55 a.m.